

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARILYN NISHITANI, CFNP, and ROD DAKAN, As Co-Personal Representatives of the Estate of VERA DAKAN, Deceased, and MARILYN NISHITANI, Individually,

Plaintiffs,

v.

No. CIV-04-0215 JB/WDS

PRESBYTERIAN HEALTHCARE SERVICES, INC. d/b/a LINCOLN COUNTY MEDICAL CENTER,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Plaintiffs' Motion for Entry of New Initial Scheduling Order, filed July 9, 2004 (Doc. 8). The primary issue is whether the Court should enter a new initial scheduling order delaying deadlines until the Court decides the pending motion to enforce the parties' settlement agreement. Because the Defendant, Presbyterian Healthcare Services, Inc. ("Presbyterian"), does not oppose the Plaintiffs' request, the Court will grant the motion for entry of a new initial scheduling order and set deadlines that are four weeks away from those currently set.

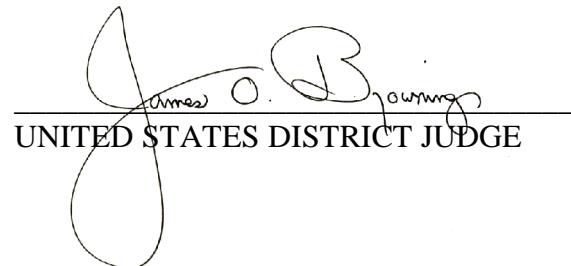
ANALYSIS

The Plaintiffs advance two reasons for their request that the Court enter a new initial scheduling order. First, the Court has set the Initial Scheduling Conference on July 26, 2004. This date is the same day the Plaintiffs' counsel will begin a 3-4 day jury trial before the Honorable M. Christina Armijo, United States District Judge.

The second reason that the Plaintiffs give for a new initial scheduling order is that Presbyterian has filed a motion seeking to enforce the settlement agreement that the parties reached. The Plaintiffs contend that Presbyterian subsequently breached the settlement agreement. The Plaintiffs believe that the Court should consider Presbyterian's motion before the initial scheduling deadlines take effect.

The Plaintiffs suggests that the Court issue a new initial scheduling order with deadlines that are four weeks away from those currently set, and that the Court re-set the initial scheduling conference. Presbyterian does not oppose the Plaintiffs' motion.

IT IS ORDERED that the Plaintiffs' Motion for Entry of New Scheduling Order is granted and the Court will enter a new initial scheduling order with deadlines that are four weeks away from those currently set. The Court will vacate the initial scheduling conference set for July 26, 2004 and reset it for late August.



UNITED STATES DISTRICT JUDGE

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